



BILLING CODE: 4410-09-P

**DEPARTMENT OF JUSTICE
DRUG ENFORCEMENT ADMINISTRATION**

**Amy S. Benjamin, N.P.
Decision and Order**

On April 20, 2012, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Amy S. Benjamin, N.P. (Respondent), of Wheeler, Mississippi. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration MB1536171, and the denial of any pending applications to renew or modify the registration, on the ground that Respondent lacks authority to handle controlled substances in Mississippi, the State in which she is registered with the Agency. Show Cause Order, at 1 (citing 21 U.S.C. § 824(a)(3)). Specifically, the Show Cause Order alleged that on June 10, 2011, the State of Mississippi Board of Nursing issued a final order, which suspended her nursing license, to include her authority to handle controlled substances in the State. *Id.*

The Show Cause Order notified Registrant of her right to request a hearing on the allegations, or in lieu of a hearing, to submit a written statement regarding the matters of fact and law asserted therein; the procedures for doing either; and the consequences for failing to do either. *Id.* at 2 (citing 21 CFR 1301.43(a), (c), (d), & (e)). The Show Cause Order was personally served on Registrant by members of the DEA New Orleans Field Division-Oxford Resident Office on April 23, 2012. GX 2, at 2; GX 6. Since the date of service of the Show Cause Order, thirty days have now passed and neither Registrant, nor anyone purporting to represent her, has requested a hearing or submitted a written statement in lieu of a hearing. I therefore find that Registrant has waived her right to a hearing or to submit a written statement in

lieu of a hearing. 21 CFR 1301.43(d).

I further find that Registrant's DEA registration was due to expire on July 31, 2012, and that Registrant has failed to submit a renewal application. *See* Gov. Notification of Registration Expiration, at Ex. B. Therefore, I find that Registrant's registration expired on July 31, 2012.

It is well settled that "[i]f a registrant has not submitted a timely renewal application prior to the expiration date, then the registration expires and there is nothing to revoke." *Ronald J. Riegel*, 63 FR 67132, 67133 (1998); *see also William W. Nucklos*, 73 FR 34330 (2008). Moreover, in the absence of an application (whether timely filed or not), there is nothing to act upon. *See Donald Brooks Reece II, M.D.*, 77 FR 35054 (2012). Because Registrant's registration has expired and there is no pending application to act upon, I conclude that this case is now moot and will be dismissed.

ORDER

Pursuant to the authority vested in me by 21 U.S.C. §§ 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that the Order to Show Cause issued to Amy S. Benjamin, N.P., be, and it hereby is, dismissed.

Dated: November 16, 2012

Michele M. Leonhart
Administrator

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